

Before the  
Federal Communications Commission  
Washington, D.C. 20554

|                                |   |                                     |
|--------------------------------|---|-------------------------------------|
| In the Matter of               | ) |                                     |
|                                | ) | CUID Nos. MI0029 (Sault Ste. Marie) |
| Bresnan Communications Company | ) | MI0136 (Calumet)                    |
|                                | ) |                                     |
| Petition for Reconsideration   | ) |                                     |

**ORDER ON RECONSIDERATION****Adopted: February 13, 2002****Released: February 14, 2002**

By the Deputy Chief, Cable Services Bureau:

1. In this Order we consider a petition for reconsideration ("Petition") of our Order, DA 95-534 ("Prior Order"),<sup>1</sup> filed with the Federal Communications Commission ("Commission") by the above-referenced operator ("Operator").<sup>2</sup> Operator filed its Petition on April 19, 1995 along with a petition for stay. We granted the stay by Order, DA 95-1235.<sup>3</sup> Our Prior Order resolved all pending complaints against Operator's CPST rates in the above-referenced communities through May 14, 1994, and found Operator's cable programming services tier ("CPST") rates to be unreasonable. In this Order, we grant Operator's Petition in part, amend our Prior Order, vacate the stay and review Operator's CPST rates beginning May 15, 1994.

2. Under the Communications Act,<sup>4</sup> at the time the referenced complaints were filed, the Commission was authorized to review the CPST rates of cable systems not subject to effective competition to ensure that rates charged are not unreasonable. The Cable Television Consumer Protection and Competition Act of 1992<sup>5</sup> ("1992 Cable Act") required the Commission to review CPST rates upon the filing of a valid complaint by a subscriber or local franchising authority ("LFA"). The filing of a complete and timely complaint triggers an obligation upon the cable operator to file a justification of its CPST rates.<sup>6</sup> The Operator has the burden of demonstrating that the CPST rates complained about are reasonable.<sup>7</sup> If the Commission finds a rate to be unreasonable, it shall determine

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<sup>1</sup> In the Matter of Bresnan Communications Company, DA 95-534, 10 FCC Rcd 4399 (1995).

<sup>2</sup> The term "Operator" includes Operator's predecessors and successors in interest.

<sup>3</sup> In the Matter of Petitions for Stay of Action, DA 95-1235, 10 FCC Rcd 6567 (1995.96).

<sup>4</sup> Communications Act, Section 623(c), *as amended*, 47 U.S.C. §543(c) (1996).

<sup>5</sup> Pub. L. No. 102-385, 106 Stat. 1460 (1992).

<sup>6</sup> See Section 76.956 of the Commission's rules, 47 C.F.R. §76.956.

<sup>7</sup> *Id.*

the correct rate and any refund liability.<sup>8</sup>

3. Operators must use the FCC Form 1200 series to justify rates for the period beginning May 15, 1994.<sup>9</sup> Cable operators may justify rate increases on a quarterly basis using FCC Form 1210, based on the addition and deletion of channels, changes in certain external costs and inflation.<sup>10</sup> Operators may justify their rates on an annual basis using FCC Form 1240 to reflect reasonably certain and quantifiable changes in external costs, inflation, and the number of regulated channels that are projected for the twelve months following the rate change.<sup>11</sup> Any incurred cost that is not projected may be accrued with interest and added to rates at a later time.<sup>12</sup>

4. In its Petition, Operator raises several issues, only one of which is addressed herein. In its Petition, Operator points out that several clerical errors were made in the filing reviewed in our Prior Order. Our review of the record reveals that several clerical errors were made and we will grant Operator's Petition to the extent it raises the issue of clerical errors. After correcting for clerical errors, our review reveals that Operator has not incurred any refund liability for the period under review in our Prior Order. Because our resolution of this issue disposes of Operator's refund liability, we decline to address any other issue raised by Operator in its Petition and we will amend our Prior Order to exclude any refund liability.

5. Upon review of Operator's FCC Form 1200 and FCC Form 1210s covering the time periods from April 1, 1994 through June 30, 1995, we find that Operator's has incurred no additional refund liability for overcharges on its CPST beginning May 15, 1994.

6. Accordingly, IT IS ORDERED, pursuant to Section 1.106 of the Commission's rules, 47 C.F.R. § 1.106, that Operator's Petition for Reconsideration IS GRANTED TO THE EXTENT INDICATED HEREIN.

7. IT IS FURTHER ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. § 0.321, that In the Matter of Bresnan Communications Company, DA 95-534, 10 FCC Rcd 4399 (1995) IS AMENDED TO THE EXTENT INDICATED HEREIN.

8. IT IS FURTHER ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. § 0.321, that the stay, granted in the Matter of Petitions for Stay of Action, DA 95-1235, 10 FCC Rcd 6567 (1995), IS VACATED.

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<sup>8</sup> See Section 76.957 of the Commission's rules, 47 C.F.R. § 76.957.

<sup>9</sup> See Section 76.922 of the Commission's rules, 47 C.F.R. § 76.922.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

9. IT IS FURTHER ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. § 0.321, that the complaints referenced herein against the CPST rates charged by Operator in the communities referenced above, ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

William H. Johnson, Deputy Chief  
Cable Services Bureau